

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

ANDREI STEPHANOVICH BORGHERIU,

Defendant.

Case No. 4:22-CR-6040-SAB-1

CRIMINAL MINUTES

DATE: FEBRUARY 13, 2025

LOCATION: RICHLAND, WA

JURY TRIAL – DAY FOUR

**CHIEF JUDGE STANLEY A.
BASTIAN**

Michelle Fox Courtroom Deputy	01 Law Clerk	Emma Garkavi Svetlana Kupriyanova Interpreters	Kimberly Allen Court Reporter
Frieda Zimmerman Jeremy Kelley Government Counsel		Justin Lonergan Nick Mirr Defense Counsel	
United States Probation Officer:			

☒ **Open Court**

☐ **Chambers**

☐ **Telecon/Video**

Defendant present and out of custody of the U.S. Marshal.

Court rules on the Motion by defendant to reopen the issue regarding loan. Court agrees with the defendant. Repayment is part of the story. Defense Motion to put this issue before the jury is GRANTED.

Court addresses counsel regarding jury instructions.

☐ **ORDER FORTHCOMING**

CONVENED: 8:15 A.M. 9:00 A.M. 10:50 A.M. 11:11 A.M. 1:25 P.M. 3:00 P.M. 4:55 P.M.	ADJOURNED: 8:48 A.M. 10:37 A.M. 11:07 A.M. 11:25 A.M. 2:53 P.M. 3:55 P.M. 5:18 P.M.	TIME: 33 MIN. 1 HR. 37 MIN. 17 MIN. 14 MIN. 1 HR. 28 MIN. 55 MIN. 23 MIN. TOTAL: 5 HRS. 27 MIN	
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F. Zimmerman has no objection to No. 1, 2. Ins. 3 agree however add date to wire fraud and add EDWA. Ins. 4, 5 no objection. Ins. 6 ask to not combine the knowledge instruction. Prefer it be 2 instructions. An additional sentence Re: unlawful should be included. No objection to Ins. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20. No objection to Verdict form.

Court asks if there are any exceptions to the instructions. F. Zimmerman does not have any exceptions.

N.Mirr presents argument on objections to Ins. 3 and 4, add date language. If not on these instructions, then add date to Ins. 15. Court asks how does it prejudice the defendant? N. Mirr responds. F. Zimmerman states Count 3 date is August not June 29. N.Mirr responds. Ins. 8 – update. Ins. 11 – limited purpose, withdraw. Ins. 20 and verdict form – asking for a special finding. Court rules that the verdict will be guilty or not guilty. N. Mirr asks to change the not guilty first and then guilty.

N. Mirr presents exceptions to instructions. Court addresses counsel.

J. Kelley understands the ruling regarding the repayment evidence. Government maintains the objection and wanted to make a record.

N. Mirr informs the Court that the only witness will be defendant and no other witnesses.

Court discusses alternate and will choose randomly.

N. Mirr presents argument and asks the alternate be 13 and not randomly.

J. Kelley responds.

Court has reviewed the jury during trial. No sleeping jurors. This juror does have body language but does not see he is not paying attention. Court will choose the alternate randomly.

Recess: 8:48 am – 9:00 am

Court addresses counsel regarding a juror asking if they can ask a question. Court does not normally allow that. Does the party want to see the question. J. Kelley does not want to see it. J. Lonergan responds. Court will tell the jury no.

Ins. 3 and 4 – will include the specific date as alleged in Indictment. Will not add EDWA. Ins. 6 – add language but will not split into 2 instructions. Language does not need to be added. Court will not use on or about language. Ins. 8 will be changed. Ins. 11 – take out limited purpose. Jury Verdict will take out on or about language.

F. Zimmerman presents argument. Indictment states on or about so object to not including it. Court states it is not in the evidence. Will not use on or about.

9:15 am – Jury reconvenes.

Court addresses the jury. Court indicates that a juror asked if they could ask a question. Court's practice is not to ask questions.

Andrei Borgheriu retakes the stand and remains under oath. Cross continues by F. Zimmerman.

J. Lonergan objects – asked and answered. Court OVERRULES objection.

Court strikes the question and answer. Court directs jury to disregard the question and answer. Government is intruding on the right to remain silent. Court strikes the comment by counsel. Court directs jury to disregard comment.

J. Lonergan objects to question. There is a call center. Court will allow question. Defense can clarify.

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J. Lonergan objects – vague. Court OVERULES objection.

Exh. 30, 33, 224, 226, 7 discussed.

J. Lonergan objects – misstatement of terms. Court will discuss objection during break.

Jury recess: 10:33 am

Court reads the Exh. 7. Where to read. F. Zimmerman indicates it is (e). J. Lonergan presents argument. Court directs counsel to restate the question once the jury returns. Court SUSTAINS objection.

Recess: 10:37 am – 10:50 am

Court discusses the on or about language in the Instructions. The language will be added in Ins. 15, 3, 4.

10:52 am – Jury reconvenes.

Andrei Borgheriu retakes the stand and remains under oath. Cross continues by F. Zimmerman.

Exh. 7 discussed.

10:58 am – Redirect by J. Lonergan.

11:00 am – Recross by F. Zimmerman.

Witness excused at 11:05 am.

Defendant Rests.

J. Kelley asks to have a moment to confer regarding rebuttal.

Recess: 11:07 am - 11:11 am

J. Kelley will call Special Agent Moisberger as a rebuttal witness.

11:15 am – Jury reconvenes.

Court addresses the jury and outlines schedule.

Alex Meusburger is sworn in and questioned by J. Kelley.

Witness excused at 11:20 am

11:22 am - Jury excused until 1:30 pm.

N. Mirr renews the Rule 29 Motion. Court takes motion under advisement.

Recess: 11:25 am – 1:25 pm

Jury reconvenes.

Court addresses the jury.

Court reads the jury instructions.

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1:54 pm – Closing argument by J. Kelley.

Recess: 2:53 pm – 3:00 pm

Closing argument by J. Lonergan.

3:37 pm - Rebuttal argument by J. Kelley.

3:45 pm - Alternate juror selected and excused for the day. Juror is instructed that he is still part of the jury until the verdict is completed.

Bailiffs are sworn in by the Court.

3:50 pm - Jury begins deliberations.

Recess: 3:55 pm – 4:55 pm

Court proceeds without interpreters. Counsel waives the presence of interpreters until they arrive.

Court reads the jury question to counsel. Court reads proposed answer.

J. Kelley presents argument. Exh. 1, page 10, the portal was open but no evidence of the sliding bar.

J. Lonergan presents argument. Court does not want to mislead the jury.

Interpreters are back on the record with defendant.

J. Kelley presents argument.

Court re-reads the proposed answer.

J. Lonergan presents argument. Answer should be no.

Court will give the answer as proposed by the Court. Court reads the answer that will be provided to the Court.

5:15 pm – Jury reconvenes. Counsel and defendant are not present. Court speaks to the jury. Court admonishes the jury. Jury will reconvene tomorrow at 8:30 am.

Recess: 5:18 pm